

THE MAINE LIAISON



Edition 36

Maine Bureau of Highway Safety

December 2021

U.S. DOT Launches Holiday Impaired Driving High-Visibility Enforcement Campaigns



In 2019, one person was killed every 52 minutes in a drunk-driving crash in the United States .

The U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) kicked off its annual holiday high-visibility enforcement campaigns today, aimed at preventing impaired driving and improving safety for all road users. The campaigns are titled: Drive Sober or Get Pulled Over and If You Feel Different, You Drive Different; Drive High – Get a DUI. As part of the high-visibility enforcement campaigns, law enforcement officers will be working with their communities from December 17, 2021, through January 1, 2022, to take impaired drivers off the roads. [Read more](#)

Maine averages 3 traffic deaths over the holiday period. That's obviously too many. This holiday period be seen by the public. Make contacts. Wish people well as you warn them about their traffic violation. If you want the support of the public you have to be part of solution. Educate and enforce to keep all people safe. **TR**

	2015	2016	2017	2018	2019
Alcohol-Impaired Driving Fatalities (BAC=.08+)	50	63	48	39	50
Speeding-Related Fatalities	60	56	50	42	49



PENNY TEST FOR TIRES – HOW TO MEASURE TREAD DEPTH



You may have heard of the penny test for tire tread depth and wondered if it's something a layperson can manage, and a reliable test and indication of tire tread depth. The answer to both is "yes!" If you have a penny handy this is an evaluation anyone can manage, and as far as rudimentary tire tread measurement goes, the penny test is about as reliable as it gets.

[Read More](#)

In this Issue

- Pandemic crash deaths
- Aggressive Driving
- BAC of 0.778??? Really
- Chemists Corner
- Bad People Drive
- TSRP Update
- MADD honors Maine Officer
- TSRP Talk



ADVANCED ROADSIDE IMPAIRED DRIVING ENFORCEMENT (A.R.I.D.E.) PROGRAM

We are seeing more and more impaired driving cases that involve drugs and/or alcohol. Gone are the days when you could simply smell the intoxicating beverage emanating from the mouth area as they spoke. It has become more involved. You need your officers to be able to recognize drug impairment then be able to testify intelligently about it. If you'd like to host an ARIDE class or attend one please contact Jim Lyman james.a.lyman@maine.gov. The MeBHS will sponsor the class so there will be no cost to your agency.

Maine Bureau of Highway Safety

The below snapshot compares 2021 to date with the same date in 2020. Additional details are provided below it:

November 30, 2021				SUB-CATEGORIES TO NOTE							
11/30/2020											
		MOTORCYCLE/ MOPED/DIRT	ON ROAD ATV	16-19 YO FATALS	20-24 YO FATALS	65+ YO FATALS	PED FATALS	BICYCLE FATALS	MOOSE	ON ROAD SNOWMOBILE FATALS	COMMERCIAL VEHICLE Related
	TOTAL NUMBER OF FATALS	FATALS	FATALS	FATALS	FATALS	FATALS	FATALS	FATALS		FATALS	
On this day in 2021	136	21	1	9	12	31	17	2	0	0	6
On this same day in 2020	162	28	2	10	8	33	7	2	1	0	8

We have had 120 crashes resulting in 136 fatalities so far this year.

We have had eight double fatality crashes and four triple fatality crashes so far this year.
53 nighttime crashes and 67 daytime crashes.

We have had 73 deceased drivers.

Of these drivers, there were 57 males and 16 females.

Average age of these drivers is 45.

We have had 21 motorcycle crashes resulting in 21 fatalities (19 motorcycle operators, 2 motorcycle passengers)

Of these motorcycle fatalities, all 19 motorcycle operators were males and both motorcycle passengers were females.

We have also had 22 motor vehicle passenger fatalities, 17 pedestrian fatalities, 1 ATV fatality, and 2 bicycle fatalities.

Please let me know if you need more information.

Thank you,

Nate McLaughlin

Nate McLaughlin

Car crash deaths have surged during COVID-19 pandemic. Here's why

It was a tally that shocked the experts: 38,680 deaths on U.S. roadways last year, [the most since 2007](#), even though pandemic precautions had dramatically reduced driving.

Los Angeles Times



Mainers urged to prepare for winter driving

"Maine's snowiest month is January, but crash statistics show there are more winter-related crashes in December than any other month," AAA of Northern New England Director of Public Affairs Pat Moody said. [Read more](#)



Hello Maine Highway Safety Folks!

Here is an interesting perspective that we should all read. Not passing any judgments either way, but certainly some things within to think about as it pertains to Highway Safety. **TSRP**

[The Deadly Myth That Human Error Causes Most Car Crashes](#)

Every year thousands of Americans die on the roads. Individuals take the blame for systemic problems.

The [recently passed infrastructure bill](#) will encourage some safety improvements, including [technology to prevent drunk people from operating a car](#) and [better crash tests to address risk to people outside a vehicle](#). [Read More](#)



The Atlantic

Aggressive Driving

Aggressive driving is extremely common among U.S. drivers. According to AAA Foundation for Traffic Safety's 2019 data, nearly 80 percent of drivers expressed significant anger, aggression or road rage behind the wheel at least once in the previous 30 days.

Aggressive driving has increasingly become a major cause of concern for many road users. Learn more about aggressive driving risks and tips to avoid aggressive driving behaviors here. [Read more](#)



OUI Email Group

Maine has it's own impaired driving email group. This closed group is for officers and prosecutors to post news, events, questions and all things relevant to impaired driving enforcement. To join contact me at Thomas.j.reagan@maine.gov

Cruiser Printers

We will be announcing soon the opening of the grant application process for eCitation printers. If you have questions please don't hesitate to contact me by email at Thomas.j.reagan@maine.gov

The National Safety Council

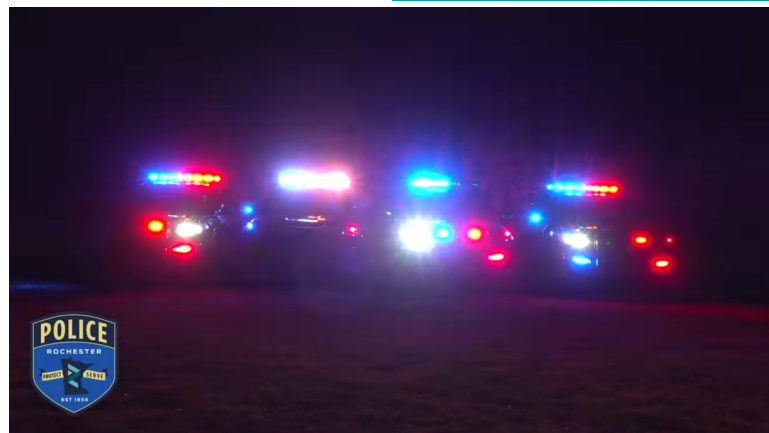
The three biggest causes of fatalities on the road are **alcohol, speeding and lack of seat belt use.**

Addressing what causes crashes, as well as the role vehicles, drivers, road systems and technology play in creating safer roads is how we will eliminate preventable deaths on the road. [Road Safety Topics - National Safety Council \(nsc.org\)](https://www.nsc.org/Road-Safety-Topics)

Rochester
Minnesota
Police know how
to celebrate the

season.

[Click here and
enjoy.](#)



2 Mainers accused of drug trafficking after traffic stop in Belfast



BELFAST (WGME) – Two Mainers are facing multiple charges after police say they found meth, morphine tablets, a stolen gun, and more in their car and a motel room. [Learn more](#) Editors note - The stop was for an inspection sticker violation



New Drug Recognition Expert (DRE) Roll Call Training Video



A new 12-minute law enforcement roll call video has been produced by the IACP Drug Evaluation and Classification (DEC) Program. The video, entitled, "[Utilization of Drug Recognition Experts](#)" is now available. This video will provide information about the DEC Program, inform police officers of what DREs do, and to promote the use of DREs in drugged driving investigations.



Check To Protect December Newsletter

Around 53 million vehicles on the road have an open safety recall – and many drivers don't know that their car could have a recall, or don't understand the urgency of getting it repaired.

We invite you to help us alert drivers about safety recalls and urge them to schedule free repairs today, especially as the holiday season quickly approaches!

[Tool Kit](#)

Great Question from Chief Clements of Saco PD

Earlier this month Dutch e-bike maker VanMoof unveiled its powerful new V model, which comes with two motors, a 700-watt engine, and a top speed of 37 miles per hour. With an expected price of \$3,598 in the United States, the V is scheduled to hit the streets at the end of 2022.

<https://www.bloomberg.com/news/articles/2021-10-29/super-fast-e-bikes-could-risk-a-regulatory-backlash>

Would you call this an electric bike, a motorized bicycle, a moped, a motorized scooter or a scooter??? The definitions are in Title 29A. *The answer is on the last page.*



Drunk driver who tested 9 times the legal limit, which is believed to be a record, will spend more than a year in prison

An Oregon man whose blood-alcohol level tested at 0.778 when he was brought to the hospital after crashing his SUV in February will spend 13 months in prison. [Read more](#)

THE POLICE TRIBUNE

Hero Down: Oakwood Police Officer Mitchell Rector Killed By Impaired Driver

October 28, 2021

Mesquite, TX – Oakwood Police Department (OPD) Officer Mitchell "Mitch" Rector died on Oct. 18 after being hit by an intoxicated driver while working an off-duty job at a road construction site, according to police.

The 36-year-old officer was sitting in a 2017 Chevrolet Malibu in the 21400-block of IH635 southbound at approximately 1:36 a.m. when the driver of a 2015 Infinity Q50 slammed into him, the Mesquite Police Department said in a [press release](#) later in the afternoon.

CHEMIST CORNER

MAINE CDC-DHHS

HEALTH & ENVIRONMENTAL TESTING LA-
BORATORY-FORENSIC CHEMISTRY SEC-
TION: TOXICOLOGY

EFFECTIVE: AUGUST 25TH, 2021

The Health & Environmental Testing Laboratory: Forensic Chemistry Section is no longer accepting urine samples at this time.

GET BLOOD.

Excerpt from *Recommendations for Toxicological Investigation of Drug-Impaired Driving and Motor Vehicle Fatalities – 2021 Update*

“As in the 2013 and 2017 recommendations, the authors further reinforced the limitations of urine as a specimen for impaired driving investigations, **as drug presence in urine demonstrates only historical drug use or exposure, potentially outside the window of relevance to an individual’s alleged intoxication or impairment. The presence of drugs in an individual’s urine does not equate to impairment at the time of collection or proximate to the time of driving.** Even though some states still allow (or may even require) urine as a specimen for DUID or motor fatality investigations, **the consensus panel strongly encourages the use of blood or oral fluid as a more appropriate sample to indicate recent, relevant drug use.** Future iterations of the guidelines will not provide recommendations related to urine screening and confirmatory cutoffs for DUID investigations. Jurisdictions that mandate the use of urine in DUID investigations should consider the adoption of more suitable matrices.”



To Order Blood Kits:


Email:

Valerie.J.Leather@maine.gov

Phone: 207-287-1712

HETL [*Forms*](#)

If you ever need social media ideas please don't hesitate to email or call me for resources. TR

 <p>State of Maine Department of Health & Human Services Health & Environmental Testing Laboratory Forensic Chemistry 221 State Street Augusta ME 04333 (207)287-1712</p>		<p>For Laboratory Use Only (Identification Number)</p>	
<p align="center">Laboratory Blood Analysis Request</p>			
<p>Laboratory Examination Requested (required): <input checked="" type="checkbox"/> Alcohol <input checked="" type="checkbox"/> Drugs Fatal/Near Fatal Accident: <input type="checkbox"/> YES <input type="checkbox"/> NO</p>			
<p>Subject's Name (Last, First): *BLOCK LETTERS</p>			
<p>N A M E , S U B J E C T</p>		<p>Subject's DOB (mm/dd/yyyy): 00/00/0000</p>	
<p>Incident Date (mm/dd/yyyy): 00/00/0000</p>		<p>Gender: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Other</p>	
<p>Incident City/County: CITY, COUNTY</p>		<p>Incident Time (2400): 0000</p>	
<p>Investigating Officer & Dept.: OFFICER FIRST NAME, LAST NAME</p>			
<p>Sample Collection Date (mm/dd/yyyy): 00/00/0000</p>		<p>Specimen Collection Time (2400): 0000</p>	
<p>Sample Collection City/County: CITY, COUNTY</p>			
<p>Specimen Collector Name (Last, First) (required): *BLOCK LETTERS</p>			
<p>N A M E , P H L E B O T O M I S T</p>			
<p>LET MY SIGNATURE STATE THAT I DREW BLOOD FROM THE ABOVE NAMED SUBJECT ON SAID DATE AND THAT I AM QUALIFIED TO DRAW A SPECIMEN OF BLOOD FOR THE PURPOSE OF DETERMINING BLOOD-ALCOHOL LEVEL OR DRUG CONCENTRATION IN ACCORDANCE WITH MRSA 29-A § 2524 AND THAT THE MATERIALS USED IN TAKING THE SAMPLE WERE OF A QUALITY APPROPRIATE FOR THE PURPOSE OF PRODUCING RELIABLE TEST RESULTS (MRSA 29-A § 2431).</p>			
<p><i>Phlebotomist Signature</i></p>		<p>00/00/0000</p>	
<p>Signature</p>		<p>Date (mm/dd/yyyy)</p>	
<p>MRSA 29-A § 2524. Administration of Tests: Persons qualified to draw blood for blood tests. Only a physician, registered physician's assistant, registered nurse, person whose occupational license or training allows that person to draw blood samples or a person certified by the Department of Health and Human Services may draw a specimen of blood for the purpose of determining the blood-alcohol level or drug concentration.</p>			
<p>DRE Information (if applicable):</p>			
<p>Evaluation Performed: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>			
<p>Name of DRE (Last, First): DRE LAST NAME, FIRST NAME</p>			
<p>DRE Agency: DRE'S AGENCY</p>			
<p><input checked="" type="checkbox"/> This sample is submitted by an active DRE, or <input type="checkbox"/> This sample is NOT submitted by an active DRE, however payment for processing will be billed to</p>			
<p>Name/Agency: Billing Address:</p>			
<p>Check suspected drug category supported by DRE evaluation: <input checked="" type="checkbox"/> CNS Depressants <input checked="" type="checkbox"/> CNS Stimulants <input checked="" type="checkbox"/> Hallucinogens <input checked="" type="checkbox"/> Dissociative Anesthetics <input checked="" type="checkbox"/> Narcotics <input checked="" type="checkbox"/> Inhalants <input checked="" type="checkbox"/> Cannabinoids</p>			
<p>List any specific drugs suspected, found and/or of interest: LIST OF DRUGS</p>			
<p>Check if applicable: <input type="checkbox"/> Do not consume sample</p>			
<p>Send Results to (mailing address):</p>		<p>Send Copy of Report to:</p>	
<p>OFFICER FIRST NAME LAST NAME</p>		<p>OFFICER FIRST NAME LAST NAME</p>	
<p>AGENCY</p>		<p>AGENCY</p>	
<p>MAILING ADDRESS</p>		<p>MAILING ADDRESS</p>	

Laboratory Blood Analysis Request
Issued by: Forensic Lab Director: Lauren Niskach
Original Issue Date: Nov 05, 2019

Page 1 of 1

FCB Document Form 158
Revised: January 25, 2021

Chemist's Corner

Remember to fill out the analysis request form for all submitted blood samples.

This form is located inside all DHHS issued blood collection kits.
For extra forms please contact: 207-287-1713 or

Ellen.A.Fraser@maine.gov

Important:
If blood drug testing is not requested for a sample HETL shall only perform blood alcohol testing.

Thursday, June 17, 2021 After decades of decline, pedestrian deaths in the United States are on the rise. U.S. pedestrian fatalities soared 53 percent from 4,109 to 6,283 between the years 2009 and 2018, according to the AAA Foundation for Traffic Safety's recent analysis of National Highway Traffic Safety Administration data.



THE

NATIONAL LAW REVIEW

Below are some of the news stories from the AAA Thanksgiving news event. Contact us if you'd like to host a traffic safety event in your area.

[AAA Northern New England prepares for holiday travel hiccups on the road - YouTube](#)

[Thanksgiving travel and safety tips from AAA and Maine State Police \(wabi.tv\)](#)

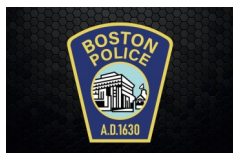
<https://fox23maine.com/news/local/winter-is-coming-mainers-urged-to-prepare-for-winter-driving>



Lt. Bruce Scott of the Maine State Police

[A Traffic Stop Leads to the Arrest of a Lynn Man on Firearm and Drug Charges](#)

Officers were on patrol in the area of Pasadena Road and Columbia Road when they observed a motor vehicle with excessively tinted windows traveling at high rate of speed. Officers activated their emergency lights and sirens to conduct a traffic stop of the motor vehicle. [Read more](#)



Traffic stop leads to Monroe man arrested for several gun and drug offenses

WEST MONROE, La. ([KTVE/KARD](#)) — On Monday, November 29, 2021, West Monroe Police observed a vehicle that failed to use a turn signal as it made a left turn off of South 3rd Street onto Filhiol Avenue. Officers initiated a traffic stop on the vehicle..

- 46 grams of marijuana
- 44 MDMA tablets
- A 9mm handgun
- A set of digital scales

[Read more](#)

[myarklamiss.com](#)

Traffic Stop Leads To Man Charged With Stealing Car: Police

RIVERSIDE, NY — A Patchogue man was arrested after a traffic stop in Riverside Wednesday, police said. According to Southampton Town Police, *the driver* was stopped on Flanders Road after an officer saw him driving without a seat belt.

[Read more](#)

Patch

Some bad people drive
Some people drive bad

N.H. Impaired Driving Conference Recordings

If you weren't able to attend New Hampshire's virtual Impaired Driving Conference earlier this month, we've provided you with the links to each day's video presentations.

We really hope you enjoyed this year's event, and are looking forward to next year's conference. Dan Goodman of AAA

Day 1 - <https://vimeo.com/646608634>

Day 2 - <https://vimeo.com/651258148>

Day 3 - <https://vimeo.com/651176640>



Hello, SADD friends and advisors!

The **SADD December Newsletter** is fresh off the e-press and can be found [here](#). We have some great programming ideas – small, medium and large – something for everybody! We also have a new way for advisors and SADD partners to connect – a [Slack group](#)! Also remember, the holidays can bring with them a real increase in risky behaviors. December is National Impaired Driving Prevention Month – so, please help us spread the word about remaining safe, rested, clearheaded and attentive behind the wheel.

- [December Programming Guide](#)
 - Host an "I Did What?" Screening – and get \$100 for your chapter!
 - [NRSF Driving Skills 101 Contest! – WIN \\$2,500!!](#)
 - [Mental Health First Aid Training, Shifting Gears, Driver's Ed Programming Guide](#)
 - [Advisor Help – Join our Slack Group! 2020-21 Planning Calendar, Chapter Start-up Packet](#)
- [Student Leadership Opportunities – Presidential Volunteer Service Award](#)

Please feel free to **forward this directly on to your students, and any community member that might be interested in joining or starting a SADD chapter.**

Please also add Maine SADD's [website](#) to your bookmarks to stay up-to-date between newsletters!

If you have any questions, reach out any time! [Newsletter](#)



Christina Schechtman
Regional Manager
(o): 207.489.4334
Pronouns: She/Her/Hers



Maine State Police say they arrested a man wanted on multiple charges from Texas after a routine traffic stop on Rt. 4 in Turner on Friday afternoon. [Read more](#)





Mothers Against Drunk Driving
madd.org

339 Hemingway Ave.
2nd Floor
East Haven, CT 06512

203.764.2566 Direct
800.544.3690 Victim Support
Bob.Garguilo@madd.org

December 7, 2021

Lieutenant Eduardo Benjamin
Holden Police Department
570 Main Road
Holden, ME 04429

Dear Lieutenant Benjamin,

Mothers Against Drunk Driving (MADD) New England is pleased to be honoring members of the law enforcement community from across the state of Maine for their exceptional DUI efforts to make our streets and highways safe through effective enforcement of the drunk and drugged driving laws, education, community involvement, training and/or volunteering with MADD in 2021.

I am happy to report that you have been selected, by your superiors, to receive MADD's Law Enforcement Recognition Award (MADD Award) for your exemplary work in 2021 in saving lives. As a result of this distinction, MADD New England will be forwarding a Certificate of Appreciation to you early in 2022.

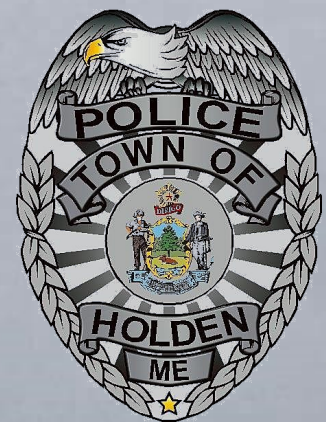
On behalf of MADD New England and the many victims and survivors we serve, thank you for all that you do each day in keeping our roadways free and clear of impaired drivers!

Stay Safe!

Sincerely,

Bob Garguilo

Bob Garguilo
Executive Director – MADD New England



Do you need social media ideas? Go to Traffic Safety Marketing to get the latest campaign and traffic safety materials for free. Check out the materials at www.trafficsafetymarketing.gov/

Looking for crash data?
National Center for Statistics and Analysis
(NCSA) Motor Vehicle Traffic Crash Data
Resource Page

Find it [here](#)





The Maine Traffic Safety Resource Prosecutor's Program Update

Maine's Traffic Safety Resource Prosecutor (TSRP) Program is expanding for FY2022 and now consists of two TSRPs: The *Senior Traffic Safety Resource Prosecutor*, and the *Assistant Traffic Safety Resource Prosecutor*. Below is their contact information:

Scot Mattox
Senior Traffic Safety Resource
Prosecutor
scot.mattox@maine.gov
(207) 376-7325

Joshua Saucier
Assistant Traffic Safety Resource
Prosecutor
joshua.saucier@maine.gov

Traffic Safety Resource Prosecutors coordinate an inter-agency, multidisciplinary approach to the investigation and prosecution of impaired driving and other traffic crimes and traffic safety issues. They do so by providing training, education, and technical support, to prosecutors and law enforcement personnel throughout their states. Traffic crimes and safety issues include alcohol and/or drug impaired driving, distracted driving, vehicular homicide, occupant restraint, and other highway safety issues.

The National TSRP program is funded by the [National Highway Traffic Safety Administration](#) and coordinated through the cooperative efforts of [The National Traffic Law Center](#) and the [National Association of Prosecutor Coordinators](#).

The Maine Bureau of Highway Safety provides the guidance and funding for Maine's TSRP program. Maine's program is administered by [Dirigo Safety, LLC](#), a contractor for the [Maine Bureau of Highway Safety](#).

The Maine TSRP Resources are Available for National and State of Maine Traffic Safety Partners, Including:

National Traffic Safety Partners:

- Other State TSRPs, LELs, JOLs, law enforcement and prosecutors
- The National Traffic Law Center
- The National Association of Prosecutor Coordinators
- National Highway Traffic Safety Administration
- American Bar Association



Maine Traffic Safety Partners:

- Bureau of Highway Safety
- Including any outside agency as directed
- Criminal Justice Academy
- All Law Enforcement Agencies
- The Prosecutor's Association
- Bureau of Motor Vehicle Hearings Examiners
- Health and Environmental Testing Lab
- Chiefs of Police Association
- Sheriff's Association
- State Legislators

The Mission of the Maine Traffic Safety Resource Prosecutors Includes:

1. Providing resources to their National & Maine partners for the investigation and prosecution of traffic safety crimes, especially OUI, as needed or requested by those agencies, and;
2. Fostering interagency understanding and cooperation for the purposes facilitating the efficiency and effectiveness of traffic safety crimes investigation and prosecution in Maine.
3. Facilitating a positive information-sharing working relationships with all their traffic safety partners.
 - A. The Senior TSRP will focus on serving law enforcement partners.
 - B. The Assistant TSRP will focus on serving prosecution partners.



TSRP TALK

A CHANGE IN FRESH-PURSUIT LAW? *LANGE V. CALIFORNIA*, __ U.S. __, 141 S. CT. 2011 (2021).

By: Joshua K. Saucier, Assistant Traffic Safety Resource Prosecutor, Maine Bureau of Highway Safety

It's January of 2020, the night sky is spitting snow, and the wind is blowing. You're on patrol and have spent half the night driving around and helping stranded cars get out of snowbanks. You approach a stoplight and get into the left-turn lane. Your light and the light for the lane to your right (the one for straight-traveling traffic) are both red. You reach down to grab the medium-sized, dark roast that you picked up from your favorite late-night drive-through and, just when you get it your lips, some oblivious motorist rips through the red light beside you.

You pull your coffee down in your surprise and, of course, splash some of it on your chin and neck, scalding you and, no doubt, staining your undershirt. You hit the switch for your blue lights, make sure it's safe to change lanes, and pursue the other vehicle.

You get behind the offending vehicle, and the operator clearly sees you. There is no way that someone could miss the bright blues bouncing off the fresh snow. Yet, they don't stop for you, and they show no interest in stopping. *Great*, you think, *my traffic warning just became a Class E failure to stop*.

After a couple of hundred feet, the vehicle pulls into a driveway. You're on their bumper, or as close thereto as you can safely be, and pull in behind the vehicle. You reach for your door handle, but the other operator is already out of the vehicle. You're getting out, but before you can open your mouth to tell the operator to stop, they open the garage door and go in. The door shuts behind them.

What do you do?

In January of 2020, some of you may have followed the operator into the garage. Why? Because there was a crime committed (failure to stop), and you were in fresh pursuit of the suspect.

Fast forward to January of 2022. Same facts. What do you do? Well, one thing is for sure: you don't go in – at least not without a warrant (or consent).

...

On June 23, 2021, the United States Supreme Court decided *Lange v. California*. In *Lange*, the Court noted that it's "fresh pursuit" ruling of years past was never intended to apply outright to *all crimes*: it just wasn't that broad. Instead, the Court tells us that, at least *in misdemeanor cases*, whether the officer can follow the suspect into the home depends upon all of the facts presented. To pursue into a suspect's dwelling, the officer needs a "law enforcement emergency." Such law enforcement emergencies, the Court tells us, could include "prevent[ing] imminent harms of violence, destruction of evidence, or [the suspect's subsequent] escape from the home."

This is one of several cases, in recent years, where the Court has moved away from simple, "categorical"-type approaches: approaches where a certain fact (such as flight) always justifies a search or seizure. The Court has, instead, insisted on a "totality of the circumstances" approach, where all facts are considered to determine whether "exigent circumstances" exist. One of those facts can include the suspects flight/failure to stop, but the flight alone is not enough to enter a home in misdemeanor cases. The officer must have and be able to articulate something more, like imminent threats of violence, destruction of evidence, or continued flight/escape. Without such other facts, you'll have to get a warrant.

Continued on next page

Now, knowing that this case applied to misdemeanors only, where does it leave us with felony OUI, aggravated DTE, or other felony driving cases? My short answer to you is that it leaves us in doubt.

In *Lange*, the Court went to great lengths to discuss the history of fresh pursuit-type cases involving an individual's home. In noting that such pursuit was allowed in felony cases, the Court details that felony crimes were a good deal narrower at the time of those rulings. Specifically, the Court stated that felonies were mostly crimes that were punishable by death. The Court wrote:

There was an oft-discussed exception: An officer, according to the day's treatises, could enter a house to pursue a felon. The felony category then was a good deal narrower than now. Many modern felonies were "classified as misdemeanors" at common law, with the felony label mostly reserved for crimes "punishable by death.

While this language is not an official change in any felony fresh-pursuit law, it signals that one may be coming. So, unless you are trying to stop someone for a traffic crime *and a former capital crime* (e.g., murder and "rape"), you should be hesitant to follow them into the house without a warrant, consent, or some other facts leading to exigent circumstances. As always, call your prosecutor's office with in-the-moment questions when you can: you'll need them for the warrant anyways.

We here at the Maine Bureau of Highway Safety are here to help, whether you are a prosecutor or a law enforcement officer. Never hesitate to reach out.

Disclaimer: The information provided in this article does not, and is not intended to, constitute legal advice; instead, all information, content, and materials herein are for general informational purposes only. Information herein may not constitute the most up-to-date legal or other information.

__ U.S. __, 141 S. Ct. 2011 (2021).

From *United States v. Santana*, 427 U.S. 38, 96 S.Ct. 2406 (1976).

Lange v. California, __ U.S. __, 141 S. Ct. 2011, 2016, 2024 (2021).

Id. at 2016.

Id.

Id. at 2024.

Or at least from what some have interpreted to be categorical approaches.

See *Missouri v. McNeely*, 569 U.S. 141, __, 133 S.Ct. 1552, 1559-60 (2013) (discussing fourth amendment jurisprudence adopting a totality of the circumstances approach and adopting one in the case at bar for blood testing).

Or another exception to the warrant requirement, such as consent.

See *Lange*, 141 S. Ct. at 2022-2024.

Id. at 2023.

Id.

It won't surprise you to learn that the court specifically decided not to address the question of whether a fleeing felon (by today's felony label) may always be pursued into the house. *Id.* at 2019 ("[W]e see no need to consider *Lange*'s counterargument that *Santana* did not establish any categorical rule—even one for fleeing felons.").

Or some other exception to the Fourth Amendment's warrant requirement.

36. Moped. "Moped" means a motorized device designed to travel with only 2 or 3 10-inch or larger diameter wheels in contact with the ground and that: A. May have fully operative pedals for propulsion by human power; B. Has an electric or a liquid fuel motor with a cylinder capacity displacement not exceeding 50 cubic centimeters or an electric motor with a capacity under 1,500 watts; and C. Is equipped with a power drive system that functions only directly or automatically and does not require clutching or shifting by the operator after the drive system is engaged.